

# Kakaako Public Infrastructure and Facilities Working Group

January 26, 2016 Final Report

## SUMMARY

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The Honolulu City Council ("City Council") is interested to take action to improve the condition of and clarify the status of certain private roads in Kakaako. The City Council expects that any effective action will require the collaboration of City and County of Honolulu ("City") agencies, as well as of the State of Hawaii ("State") Legislature and State agencies.

Accordingly, by Resolution 15-045, CD1, FD1 (passed March 11, 2015), the City Council established the Kakaako Public Infrastructure and Facilities Working Group ("KPIFWG") and asked it to meet, conduct fact finding, and develop collaborative recommendations [SEE APPENDIX A, LIST OF PARTICIPANTS].

## RECOMMENDATIONS

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The following recommendations reflect the KPIFWG's general consensus for resolving usage and maintenance issues discussed during the first three meetings. However, because pending litigation filed over parking fees involving private roads included City and State agencies as parties, a majority of agency representatives were precluded from adopting positions on the following recommendations.

As such, the KPIFWG's Co-Chairs offer the following recommendations as a reflection of a general group consensus. Specific implementation actions will be considered through legislative measures introduced in the State House of Representatives and State Senate during the 2016 legislative session to address items 1, 2 and 3. Legislative measures may be introduced in the City Council to address items 4 and 5, as appropriate. References to the "State" in recommendations 1 and 3 refer to the Hawaii Community Development Authority ("HCDA"), and to the "City" in recommendations 1, 3, 4 and 5 refer to the Departments of Transportation Services and Planning and Permitting.

1. The State could condemn the road (i.e. the entire right-of-way, including the road, shoulders, etc.), make road and infrastructure improvements (gradually, if necessary), and subsequently dedicate the improved road to the City. The City could then accept the entire right-of-way (including the road, shoulders, improvements, etc.) and maintain the road going forward.

- a. The State Legislature could appropriate funds to the appropriate State department(s) for condemnation and infrastructure improvements in preparation for dedication to the City.
  - b. HCDA's Improvement District ("ID") Program could be utilized to fund infrastructure improvements.
  - c. Relaxed requirements (compared to current City standards) could be adopted by City/State agencies, thereby minimizing the assessment amounts on small landowners.
  - d. The City would then accept the dedication of the road upon completion of the agreed-upon infrastructure improvements.
  - e. The City Council could appropriate funds to the appropriate City department(s) for maintenance.
2. HCDA does not currently require developers to provide supplemental documentation as to ownership of the surrounding roads at the time of a development project application.
  - a. The State Legislature could adopt legislation to require, at the time of a development project application, that developers provide supplemental documentation to HCDA regarding ownership of all surrounding roads.
3. The City/State could build public parking structures/lots in the Kakaako area to address the limited public parking issue.
  - a. The City Council/State Legislature could appropriate funds.
4. The City could enforce traffic regulations on private roads in Kakaako, as HRS section 46-16 and ROH section 15-1.1 allow the City to enforce traffic regulations on private streets that have been used by the public for more than six months.
  - a. The City could enforce the appropriate ordinance, to allow pedestrians unobstructed access to a safe walking area.
  - b. The City could enforce the appropriate ordinance, to restrict the parking of vehicles where it is dangerous to those using the road and to prevent parked vehicles on the shoulder of the road from obstructing the normal flow of traffic.
5. The City could make a determination on whether or not Kakaako Land Co. is violating any City ordinances.
  - a. If they are found to be in violation, the appropriate City agencies in charge of enforcement of the violations could contact Kakaako Land Co. with a deadline to comply with correction.
  - b. If correction of violations is not performed, then appropriate agencies could levy penalties and remove all Kakaako Land Co. signage.
  - c. With signage and rented parking spaces removed, the roads could qualify for surface maintenance by the City.

## PROCESS

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To achieve the above outcomes, the Mediation Center of the Pacific was engaged to provide facilitation and recording services.

The KPIFWG held four public meetings on:

- Wednesday, October 14, 2015, Committee Meeting Room, 2nd Floor, Honolulu Hale, 3:30 p.m.
- Thursday, November 12, 2015, Committee Meeting Room, 2nd Floor, Honolulu Hale, 3:30 p.m.
- Friday, December 11, 2015, Committee Meeting Room, 2nd Floor, Honolulu Hale, 2:30 p.m.
- Friday, January 22, 2016, Conference Room 229, Hawaii State Capitol, 2:30 p.m.

At the first meeting of the KPIFWG, three “KPIF Working Group Questions and Recommendations” (the Questions) were posed by Chair Fukunaga in order to clarify the assignment given to the KPIFWG by the Chair of the City Council. The Questions included:

1. Clarifying existing ownership of private roads in central Kakaako area.
2. Identifying issues impacting maintenance, operations, and planning for private roads under current ownership situations.
3. Identifying options for City and County and/or State of Hawaii to acquire private roads or pursue other alternatives to provide safe roadways and infrastructure in Kakaako.

Additional observations and questions relevant to the above questions were also raised at the first meeting of the KPIFWG. In between the meetings, KPIFWG members collected information or compiled opinions in response to the questions. All information and opinions collected and contributed by individual KPIFWG members were posted to the KPIFWG’s online folder<sup>1</sup> and can be accessed by using the City and County of Honolulu's Integrated Document Management System (“Docushare”) [SEE APPENDIX B, LIST OF DOCUMENTS].

During the subsequent meetings, the KPIFWG discussed each of the Questions and shared the information that it used to develop its recommendations [SEE APPENDIX C, RESOLUTION, MEETING AGENDAS, AND MINUTES].

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<sup>1</sup> <http://www4.honolulu.gov/docushare/dsweb/View/Collection-2327>

## APPENDIX A

### LIST OF PARTICIPANTS

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The following individuals and departmental designees served on the KPIFWG:

Leo Asuncion	Designee	State of Hawaii	Office of State Planning
George Atta	Member	C & C Honolulu	Dept. of Permitting & Planning
Aedward Los Banos	Member	State of Hawaii	Hawaii Community Development Authority
Roy Bumgarner	Member	Resident	Imperial Plaza
Michael Formby	Member	C & C Honolulu	Dept. of Transportation Services
Rodney Funakoshi	Member	State of Hawaii	Land Use Division, Office of State Planning
Carol Fukunaga	Co-Chair	C & C Honolulu	Honolulu City Council
Aaron Landry	Member	C & C Honolulu	Ala Moana Neighborhood Board #11
Donna Leong	Member	C & C Honolulu	Corporation Counsel
Michael MacDonald	Designee	Business Owner	MacDonald & Porter
Deepak Neupane	Designee	State of Hawaii	Hawaii Community Development Authority
Suzanne Chun Oakland	Co-Chair	State of Hawaii	Hawaii State Senate
Jennifer Waihe'e-Polk	Designee	C & C Honolulu	Department of Corporation Counsel
Ross Sasamura	Member	C & C Honolulu	Department of Facility Management
Steven Scott	Member	Business Owner	Scott Hawaii
Ryan Tam	Designee	C & C Honolulu	Ala Moana Neighborhood Board #11
Russell Tsuji	Member	State of Hawaii	Department of Land & Natural Resources
Michael Wong	Designee	State of Hawaii	Office of Attorney General
Ryan Yamane	Co-Chair	State of Hawaii	Hawaii State House of Representatives

## APPENDIX B

### LIST OF DOCUMENTS

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All documents (“Communications”) submitted by KPIFWG members, or by members of the public in relation to the KPIFWG, were processed by the City Council Clerk's Office (“Clerk's Office”) and can be publically viewed online by using the City and County of Honolulu's Integrated Document Management System (“Docushare”). To view the Communications collection from the Docushare homepage,<sup>1</sup> click on the following folders in subsequent order: City Council Records Collection; 2016; Other Council Created and Related Boards (2004 to Present); [ACTIVE -] Kakaako Public Infrastructure and Facilities Working Group; Kakaako Public Infrastructure and Facilities Working Group Communications; and 2015 Kakaako Public Infrastructure and Facilities Working Group Communications,<sup>2</sup> or 2016 Kakaako Public Infrastructure and Facilities Working Group Communications.<sup>3</sup>

The Clerk's Office divides all Communications into three categories based on the person or organization that submits them— Council, Departmental, or Miscellaneous— and assigns them numbers based on the order that they were received in any given calendar year. The Clerk's Office receives and processes hundreds of documents annually, so the numbers assigned are not indicative of any type of relationship between the documents.

The following is a list of KPIFWG Communications, as numbered and titled by the Clerk's Office:

#### Council Communications (“COUNCIL COM.” or “CC-”)

- CC-300(15):** KAKAAKO PUBLIC INFRASTRUCTURE AND FACILITIES WORKING GROUP - Meeting notice, agenda and handouts. KPIFWG File
- CC-333(15):** KAKAAKO PUBLIC INFRASTRUCTURE AND FACILITIES WORKING GROUP - Meeting notice, agenda and handouts. KPIFWG File
- CC-016(16):** FUKUNAGA - Meeting #4 Handout, January 22, 2016 (KPIF Working Group)
- CC-017(16):** FUKUNAGA - Proposed Recommendations Meeting #4 Handout, January 22, 2016 (KPIF Working Group)

#### Departmental Communications (“DEPT. COM.” or “D-”)

- D-0730(15):** ALA MOANA-KAKAAKO NEIGHBORHOOD BOARD NO. 11 - Answers to questions from the October 14, 2015 KPIF Working Group meeting. KPIFWG
- D-0735(15):** PLANNING AND PERMITTING - Questions and issues from KPIF Working Group Meeting, 10/14/15. KPIFWG
- D-0737(15):** CORPORATION COUNSEL - Response to KPIF Working Group questions. KPIFWG
- D-0738(15):** CORPORATION COUNSEL - ROH Section 14-32.2. KPIFWG
- D-0739(15):** CORPORATION COUNSEL - HRS Section 264-1. KPIFWG
- D-0029(16):** PLANNING AND PERMITTING - Letter from Musician's Association of Hawaii to HCDA. KPIFWG

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<sup>1</sup> <http://www4.honolulu.gov/docushare/dsweb/HomePage>

<sup>2</sup> <http://www4.honolulu.gov/docushare/dsweb/View/Collection-2409>

<sup>3</sup> <http://www4.honolulu.gov/docushare/dsweb/View/Collection-2410>

Miscellaneous Communications ("MISC. COM" or "M-")

- M-3210(15):** Roy Bumgarner - Original Plat of Kewalo Tract. KPIFWG  
**M-3211(15):** Roy Bumgarner - Map KPIFWG  
**M-3212(15):** Roy Bumgarner - Testimony. KPIFWG  
**M-3213(15):** Roy Bumgarner - Map. KPIFWG  
**M-3214(15):** Roy Bumgarner - Status report. KPIFWG  
**M-3215(15):** Roy Bumgarner - Ownership of Kewalo Tract Streets. KPIFWG  
**M-3216(15):** Roy Bumgarner - Roads in Limbo. KPIFWG  
**M-3217(15):** Steve Scott, Scott Hawaii - History of Roads in Central Kakaako and Supporting Documents. KPIFWG  
**M-3218(15):** Steve Scott - "Right of Entry from HCDA to Kakaako Land Co." article. KPIFWG  
**M-3219(15):** Steve Scott - Kewalo Tract Streets as of January 19, 2015. KPIFWG  
**M-3220(15):** Steve Scott - "Original Plat of Kewalo Tract" article. KPIFWG  
**M-3221(15):** Steve Scott - "Senate & House Joint Resolution - 1903" article. KPIFWG  
**M-3222(15):** Steve Scott - "Kakaako Land Co. in violation of City Ordinances" article. KPIFWG  
**M-3223(15):** Senator Suzanne Chun Oakland & Councilmember Carol Fukunaga - Response to KPIF Working Group Inquiry. KPIFWG  
**M-3224(15):** HCDA - Street ownership in Kakaako. KPIFWG  
**M-3225(15):** Roy Bumgarner, The Imperial Plaza - Response to KPIF Working Group questions. KPIFWG  
**M-3227(15):** Aaron Landry - Lease between Kakaako Land Company LLC and Bob Emami. KPIFWG  
**M-3342(15):** Russell Tsuji, Department of Land and Natural Resources - Act 288. KPIFWG  
**M-3343(15):** Russell Tsuji, Department of Land and Natural Resources - Quitclaim of State's interests, if any, over the lane adjacent to King Street to the City and County of Honolulu, Honolulu, Oahu, Tax Map Key: (1) 1-7-003. KPIFWG  
**M-3344(15):** Russell Tsuji, Department of Land and Natural Resources - Quitclaim of State's interests, if any, in Forest Ridge Way to the City and County of Honolulu, Honolulu, Oahu, Tax Map Key: (1) 2-5-015; adjacent to 014 and 018. KPIFWG  
**M-3345(15):** Russell Tsuji, Department of Land and Natural Resources - Request for legal interpretation of the definition of "public highway" under HRS 264-1 (a). KPIFWG  
**M-3346(15):** Russell Tsuji, Department of Land and Natural Resources - Roadway Ownership. KPIFWG  
**M-3347(15):** Russell Tsuji, Department of Land and Natural Resources - Old Waipahu Road, Wailuku, Maui, Hawaii. KPIFWG  
**M-3348(15):** Russell Tsuji, Department of Land and Natural Resources - Quitclaim of State's interests, if any, in Old Waipahu Road to the County of Maui, Waikapu, Maui, TMK: (2) 3-5-002. KPIFWG  
**M-3411(15):** KPIF Working Group - Facilitator recommendations for discussion. KPIFWG  
**M-3412(15):** KPIF Working Group - Questions and responses. KPIFWG  
**M-3413(15):** Michael MacDonald, MacDonald & Porter, Inc. - Private roadways recommendations in the interim. KPIFWG  
**M-3821(15):** Hawaii Community Development Authority - Proposed questions and recommendations. KPIFWG  
**M-3846(15):** Bob Emami - Comments to Kakaako Public Infrastructure and Facilities Working Group. KPIFWG  
**M-3849(15):** Deepak Neupane, Hawaii Community Development Authority - Street improvement information. KPIFWG PWIS CCM  
**M-0169(16):** Judith Atiyeh - Testifier January 22, 2016 (KPIF Working Group)  
**M-0170(16):** Michael MacDonald - Testifier January 22, 2016 (KPIF Working Group)  
**M-0171(16):** Bob Emami - Testifier January 22, 2016 (KPIF Working Group)  
**M-0172(16):** Senator Suzanne Chun Oakland, Co-Chair - Meeting #4 Handout January 22, 2016 (KPIF Working Group)

Resolution ("RES")

**RES15-045, CD1, FD1<sup>4</sup>**

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<sup>4</sup> Resolution 15-45, CD1, FD1 created the KPIF Working Group.

**APPENDIX C**

**RESOLUTION, MEETING AGENDAS, AND MINUTES**



## RESOLUTION

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ESTABLISHING AN ADVISORY WORKING GROUP TO ADDRESS PUBLIC INFRASTRUCTURE ISSUES RESULTING FROM CONFLICTS OVER PRIVATE AND PUBLIC ROAD OWNERSHIP IN THE KAKAAKO COMMUNITY.

WHEREAS, the Kakaako Community Development District is a 600-acre area bounded by Piikoi, King, and Punchbowl Streets and Ala Moana Boulevard, including the waterfront area from Kewalo Basin to Forrest Avenue and the Hawaiian Electric Company power plant site adjacent to Honolulu Harbor Piers 6, 7 and 8; and

WHEREAS, once primarily known as an area with auto repair shops, industrial and warehouse uses, Kakaako today is an area that is also home to retail shopping complexes, movie theaters, residential condominiums, public housing developments and an eclectic street culture/arts scene; and

WHEREAS, the State of Hawaii, Department of Business, Economic Development and Tourism's Hawaii Community Development Authority (HCDA) is working to bring together private enterprise and government to establish Kakaako as an economically and socially viable community that can provide a range of public benefits; and

WHEREAS, the HCDA-approved Kamehameha Schools "Our Kakaako" master plan, if fully implemented, will result in seven new residential towers, 2,750 units, and 300,000 square feet of commercial space on 29 Kakaako acres over the next 10 to 20 years. The Howard Hughes Corporation's HCDA-approved master plan, called "Ward Village," includes as many as 22 new towers and more than a million square feet of retail and commercial space, to be built in Kakaako within the next 15 years; and

WHEREAS, the State of Hawaii has previously invested over \$217 million on improvement projects in Kakaako and may continue substantive investment for long-term development in the Kakaako District; and

WHEREAS, the extensive planned development in the Kakaako District, calculated to continue over the next 15 years, has resulted in significant concern regarding the issue of private road ownership, maintenance and the need for coherent infrastructure development in Kakaako; and

WHEREAS, the existence of a patchwork of private roads whose ownership is disputed hinders HCDA's plans for orderly redevelopment of Kakaako Mauka and the City's efforts to develop "complete streets" approaches to improve pedestrian walkability within transit-oriented development zones surrounding the Kakaako transit stations; and





## RESOLUTION

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WHEREAS, the Council finds that there is a need for a comprehensive examination of private roads in Kakaako, including Queen Street (south of South Street), Kawaiahao Street, Cooke Street, Ward Avenue, Cummins Street, Ilaniwai Street, Curtis Street, Dreier Street, Koula Street (Ala Moana Boulevard to Auahi Street), Lana Lane (Ala Moana Boulevard to Auahi Street), Ohe Lane (Ala Moana Boulevard to Auahi Street), Ohe Lane (Pohukaina Street to Halekauwila Street), Waimanu Street (Dreier Street to Kamakee Street), and Kamakee Street (Queen Street to Waimanu Street) to facilitate appropriate infrastructure planning, upgrades, maintenance, and assignment of responsibilities to the appropriate State or City agencies to support planned growth and the expected estimated increase to 30,000 residents by 2030; and

BE IT RESOLVED by the Council of the City and County of Honolulu that it hereby establishes a working group, to be known as the Kakaako Public Infrastructure and Facilities Working Group, to conduct a comprehensive examination of the private roads in Kakaako and recommend solutions and appropriate actions for City or State acquisition of these private roads, as necessary; and

BE IT FURTHER RESOLVED that the Council Chair invite individuals to participate in the working group who represent the following:

- Public Works, Infrastructure and Sustainability Committee of the Honolulu City Council;
- Water and Land Committee in the State House of Representatives;
- Human Services and Housing Committee in the State Senate;
- City Department of Transportation Services;
- City Department of Facility Maintenance;
- City Department of Planning and Permitting;
- City Department of Corporation Counsel;
- State Department of Land and Natural Resources;
- State Office of Planning;
- State Hawaii Community Development Authority;



## RESOLUTION

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- State Department of the Attorney General;
- A resident and a business owner with an entrance or exit on a Kakaako private road;
- A member of the Ala Moana/Kakaako Neighborhood Board No. 11;

and

BE IT FINALLY RESOLVED that copies of this Resolution be sent to the Chair of the Honolulu City Council, the Speaker of the State House of Representatives, the President of the State Senate, the Attorney General, the Mayor, the Managing Director, the Director of Transportation Services, the Director of Facility Maintenance, the Director of Planning and Permitting, the Corporation Counsel, the Director of Land and Natural Resources, the Acting Director of the Office of Planning, the Executive Director of the Hawaii Community Development Authority, Kakaako community members and the Ala Moana/Kakaako Neighborhood Board No. 11.

INTRODUCED BY:

Carol Fukunaga

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DATE OF INTRODUCTION:

February 19, 2015  
Honolulu, Hawaii

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Councilmembers

CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
CERTIFICATE

**RESOLUTION 15-45, CD1, FD1**

Introduced: 02/19/15 By: CAROL FUKUNAGA

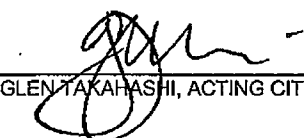
PUBLIC WORKS,  
Committee: INFRASTRUCTURE AND  
SUSTAINABILITY

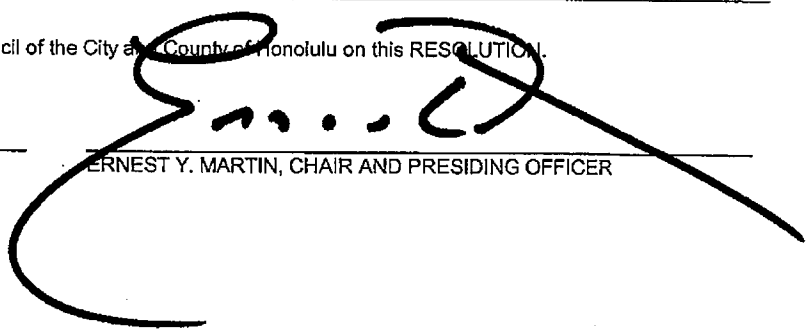
Title: RESOLUTION ESTABLISHING AN ADVISORY WORKING GROUP TO ADDRESS PUBLIC  
INFRASTRUCTURE ISSUES RESULTING FROM CONFLICTS OVER PRIVATE AND PUBLIC ROAD  
OWNERSHIP IN THE KAKAAKO COMMUNITY.

Voting Legend: \* = Aye w/Reservations

03/04/15	PUBLIC WORKS, INFRASTRUCTURE AND SUSTAINABILITY	CR-84 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION AS AMENDED IN CD1 FORM.
03/11/15	COUNCIL	RESOLUTION AMENDED TO FD1. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA. 1 ABSENT: PINE. CR-84 AND RESOLUTION 15-45, CD1, FD1 WERE ADOPTED. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA. 1 ABSENT: PINE.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.

  
GLEN TAKAHASHI, ACTING CITY CLERK

  
ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

## MEETING MINUTES KAKAAKO PUBLIC INFRASTRUCTURE AND FACILITIES WORKING GROUP

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WEDNESDAY, OCTOBER 14, 2015  
COUNCIL COMMITTEE MEETING ROOM  
2<sup>nd</sup> FLOOR  
HONOLULU HALE  
3:30 p.m.

### MEMBERS PRESENT

Co-Chair Carol Fukunaga, City Council  
Co-Chair Suzanne Chun Oakland, State Senate  
Leo Asuncion, Jr., Office of Planning  
George Atta, Department of Planning and Permitting  
Michael Formby, Department of Transportation Services  
Donna Leong and Jennifer Waihee-Polk, Department of Corporation Counsel  
Russell Tsuji, Department of Land and Natural Resources  
Deepak Neupane, Hawaii Community Development Authority  
Mike Wong, Department of the Attorney General  
Roy Bumgarner, Imperial Plaza  
Steve Scott, Scott Hawaii

### MEMBERS ABSENT

Co-Chair Ryan Yamane, State House of Representatives  
Aaron Landry, Ala Moana-Kakaako Neighborhood Board #11  
Ross Sasamura, Department of Facility Maintenance

### OTHERS PRESENT

Facilitator Thomas J. Mitrano, Mediation Center of the Pacific, Access ADR program  
Dr. Barbara Polk, Mediation Center of the Pacific, Access ADR program

### CALL TO ORDER

The meeting of the Kakaako Public Infrastructure and Facilities Working Group ("Working Group") was called to order by Co-Chair Carol Fukunaga ("Co-Chair Fukunaga") at 3:30 p.m.

### OPENING REMARKS BY COUNCIL CHAIR ERNEST MARTIN

Council Chair Ernest Martin ("Chair Martin") provided opening remarks regarding the longstanding issue of private roads, especially in regards to the future development of Kakaako and its enormous potential to the City. Chair Martin stated that the issue had reached a critical juncture and was hopeful that the Working Group's end product would assist in bringing guidance to both the City Council and the State Legislature.

### OPENING REMARKS BY CO-CHAIRS CAROL FUKUNAGA AND SUZANNE CHUN OAKLAND AND BRIEF OVERVIEW OF RESOLUTION 15-45, CD1, FD1, ESTABLISHING WORKING GROUP

Co-Chair Carol Fukunaga ("Co-Chair Fukunaga") provided opening remarks and stated that both the City Council and the State Legislature have been concerned about issues involving private roads, particularly in Kakaako. She provided a brief overview of Resolution 15-45, CD1, FD1, including that the Working Group was established to provide a comprehensive examination of the private roads in Kakaako and to recommend solutions and appropriate actions for City and State agencies. Co-Chair Fukunaga stated the intention of the Working Group was to focus on achieving the most equitable solution in dealing with infrastructure needs and improvements, to assist in achieving the vision of an improved and livable Kakaako.

Co-Chair Suzanne Chun Oakland ("Co-Chair Chun Oakland") provided opening remarks and stated that disputed roadways have been a longstanding issue statewide. She stated that the goal of the Working Group was to help address the issue in Kakaako, but that it may also produce recommendations that assist statewide in addressing other areas.

#### 1. INTRODUCTION OF WORKING GROUP MEMBERS

Facilitator Tom Mitrano ("Facilitator") was introduced. Each Working Group member ("Member") introduced his or herself and provided an explanation as to how he or she, or his or her respective department, became involved with the Working Group.

#### 2. DISCUSSION OF NOTICE AND AGENDA, QUORUM, AND MEETING MINUTES

It was explained that although Resolution 15-45, CD1, FD1 did not specify Sunshine Law requirements, the Working Group could issue notice and agendas six days prior to scheduled meetings, hold meetings in the Council Committee Room, issue standardized agendas, establish a quorum (specific number to be discussed and determined), allow an opportunity for the public to testify, and keep minutes. There were no objections by Members.

#### 3. DISCUSSION RELATING TO MEMBER DESIGNEES

It was explained that if a Member was unable to attend a meeting, he or she may send a designee in his or her place. However, if a Member was going to miss more than one meeting, it was recommended that the same designee attend each meeting.

#### 4. DISCUSSION OF PROPOSED NUMBER OF MEETINGS AND FINAL PRODUCT

It was explained that a total of three meetings, supplemented by smaller discussion groups, would be the best use of Members' time. After information gathering, a draft report would be provided to the Working Group for review and discussion during the second meeting. A final report would be provided to the Working Group for review and during the third meeting. A fourth meeting could be called, if necessary. It was explained that a voluminous report was not expected as the final product, but rather a set of recommendations by those who are most familiar with, and knowledgeable about, the issues associated with private roads to help City and State policymakers and executive agencies determine solutions.

#### 5. DISCUSSION OF SMALLER WORKING GROUP FORMAT

It was discussed that Members would not be required to follow Sunshine Law requirements as stringent as those applicable to City Councilmembers. Members were encouraged to utilize smaller discussion groups to brainstorm ideas, and develop recommendations for consideration by the full Working Group.

#### 6. DISCUSSION OF CURRENT CONDITIONS INVOLVING KAKAAKO PRIVATE ROADS AND SUBSEQUENT IDENTIFICATION OF KEY QUESTIONS AND ISSUES

Members were provided a packet containing brief background information regarding private roads in Kakaako. Discussion ensued regarding the clarification of existing ownership of private

roads in the central Kakaako area. Members discussed and identified the following key questions:

- Will the Working Group's recommendations impact the ongoing court cases?
- What is the legal status of private roads? What is the law regarding streets that do not have posted signs designating them as private? If no signs designating roads as private have been posted, what is the law regarding ownership after a designated period of years have passed (i.e. adverse possession, etc.)?
- Have private street "owners" been paying taxes? Are taxes required on privately owned roads?
- What actions have the State or Counties taken in other private road ownership situations/disputes (i.e. road surrender, no entity claiming ownership of road, etc.)?
- Would the Legislature/County Council need to take any affirmative action to address private road ownership disputes?

Discussion ensued regarding the identification of issues impacting maintenance, operations, and planning for private roads under current ownership situations. Members discussed and identified the following key questions:

- Who owns the surrounding streets on Map D-2 (from October 14, 2015 handout - County Division of Land Survey and Acquisition Map) and how is HCDA involved? Can Map D-2 be updated to reflect existing conditions as of October 2015? What is the historical timeline involving ownership changes in central Kakaako?
- Which private roads should receive the Working Group's highest priority?
- What is the current situation regarding parking on private roads in Kakaako? Which ones have parking restrictions? How much are businesses and/or drivers charged?
- What is the best way to restore maintenance to the private roads whose maintenance currently has been halted?
- Can a private road owner dedicate only the paved portion of the road to the public, and reserve the road right of way for private purpose? Can a person who dedicates a roadway to the public only dedicate the paved portion?

Discussion ensued regarding the identification of options for the City and/or State to acquire private roads or pursue other alternatives to provide safe roadways and infrastructure in Kakaako. Members discussed and identified the following key questions:

- What are the exact limitations on Honolulu city government's ability to plan for areas along private roads, or to upgrade them or utilities within their rights of way, if desired?
- How can private roads become public roads, what is the procedure, what is the cost, and which entity pays?

#### ANNOUNCEMENTS AND PUBLIC COMMENTS

There were no announcements or public comments offered.

#### NEXT MEETING

The next meeting is scheduled for Thursday, November 12, 2015, at 3:30 p.m. (Council Committee Meeting Room, 2<sup>nd</sup> Floor, Honolulu Hale).

#### ADJOURNMENT

The meeting was adjourned by Co-Chair Fukunaga at 5:00 p.m.

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# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

## MEETING MINUTES KAKAAKO PUBLIC INFRASTRUCTURE AND FACILITIES WORKING GROUP

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THURSDAY, NOVEMBER 12, 2015  
COUNCIL COMMITTEE MEETING ROOM  
2<sup>nd</sup> FLOOR  
HONOLULU HALE  
3:30 p.m.

### MEMBERS PRESENT

Co-Chair Carol Fukunaga, City Council  
Co-Chair Suzanne Chun Oakland, State Senate  
Co-Chair Ryan Yamane, State House of Representatives  
Leo Asuncion, Jr., Office of Planning  
George Atta, Department of Planning and Permitting  
Michael Formby, Department of Transportation Services  
Russell Tsuji, Department of Land and Natural Resources  
Deepak Neupane, Hawaii Community Development Authority  
Jennifer Waihee-Polk, Department of Corporation Counsel  
Mike Wong, Department of the Attorney General  
Roy Bumgarner, Imperial Plaza  
Aaron Landry, Ala Moana-Kakaako Neighborhood Board #11  
Michael MacDonald, MacDonald & Porter, Inc. (for Steve Scott, Scott Hawaii)

### MEMBERS ABSENT

Ross Sasamura, Department of Facility Maintenance

### OTHERS PRESENT

Facilitator Thomas J. Mitrano, Mediation Center of the Pacific, Access ADR program  
Dr. Barbara Polk, Mediation Center of the Pacific, Access ADR program

### CALL TO ORDER

The meeting of the Kakaako Public Infrastructure and Facilities Working Group ("Working Group") was called to order by the co-chairs at 3:35 p.m.

### APPROVAL OF MEETING MINUTES

The minutes of the Wednesday, October 14, 2015 Working Group meeting were approved, with one correction. The date of the next meeting was corrected to Thursday, November 12, 2015.

### DISCUSSION

The Working Group discussed a list of questions and proposed responses (see attachment, revised October 23, 2015) that were developed based on discussions during the previous Working Group meeting, which were organized based on the following three categories: 1) Clarification of existing ownership of private roads in central Kakaako area; 2) Identification of issues impacting maintenance, operations, and planning for private roads under current ownership situations; and 3) Identification of options for City and County and/or State of Hawaii

to acquire private roads, or pursue other alternatives to provide safe roadways and infrastructure in Kakaako. The facilitator explained that material submitted to the Working Group was available online in the DocuShare library on the City Council's website.

1. CLARIFICATION OF EXISTING OWNERSHIP OF PRIVATE ROADS IN CENTRAL KAKAAKO AREA

The Working Group briefly discussed various laws and policies relating to the ownership, and the ownership transfer, of private roads. The designee from the Department of the Corporation Counsel ("COR") provided further explanation regarding material submitted. Discussion ensued regarding commercial activities and City taxation. The designee from the Department of Land and Natural Resources provided further explanation regarding material submitted, noting the history of confusion surrounding the private road issue. The co-chairs provided further explanation regarding material submitted, relating to the legislative perspective.

2. IDENTIFICATION OF ISSUES IMPACTING MAINTENANCE, OPERATIONS, AND PLANNING FOR PRIVATE ROADS UNDER CURRENT OWNERSHIP SITUATIONS

The designee from the Hawaii Community Development Authority ("HCDA") provided further explanation regarding material submitted: an updated map based on Hawaii Community Development Authority records. Discussion ensued regarding the ownership of various Kakaako roads, and HCDA's policy regarding development applications. The designees representing local businesses and residents provided further explanation regarding materials submitted, relating to the Working Group's prioritization of streets; and the current parking situation in the Kakaako area. Discussion ensued regarding the lack of public parking in the Kakaako area, and the inconsistency regarding the amount of money private landowners were charging for Kakaako area parking. The designees from COR and the Department of Planning and Permitting ("DPP") provided further explanation regarding materials submitted relating to City ordinances governing road maintenance and the dedication of roads.

3. IDENTIFICATION OF OPTIONS FOR CITY AND/OR STATE TO ACQUIRE PRIVATE ROADS, OR PURSUE OTHER ALTERNATIVES

The designee from DPP provided further information regarding material submitted, relating to the usual method in which the City receives roads. The designee from DPP noted that dedication is the most common method, but added that the City usually requires that the roads meet certain standards. Dedication via the subdivision process was discussed. The designees from COR and DPP explained that although the City does not generally take roads through condemnation or acquire roads through purchase, both can occur under specific circumstances. The designees from COR and DPP further clarified the difference between issues relating to ownership, and issues relating to access.

4. NEED FOR ADDITIONAL INFORMATION, IF ANY

The Working Group discussed a need for further information prior to moving forward with the discussion of recommendations. Working Group members raised questions regarding a pending civil lawsuit relating to private roads. The co-chairs clarified that the intention of the Working Group was not to resolve any ownership issues, or to intervene in any pending lawsuits.

Discussion ensued regarding: circumstances in which City services are provided on private roads; the limited public parking in the Kakaako area; pedestrian safety along unimproved sidewalks in the Kakaako area; ordinances and statutes that are applicable to private roads; the difference between private roads (roads owned by a private entity, not belonging to a government entity) and roads in limbo (roads owned by a government entity, but a jurisdictional



dispute between the City and State exists); and HCDA's policy regarding improvement district projects. It was determined that the following questions likely required additional information:

- In an ownership transfer of a road parcel, can a landowner dedicate the travel lane portion of the road and retain ownership of the remainder of the right of way?
- Is a road taxed differently when there are commercial activities occurring (i.e. a private landowner charging for parking), compared to when there are no commercial activities occurring (i.e. free, public parking on a private road)?
- When does an access become a prescriptive easement (i.e. the right to use the property of another, acquired by continued use without permission of the private landowner for a prescribed period of time)?
- How do DFM and ENV decide whether or not to provide services (trash pickup, road repaving, etc.) on a private road?
- How do HPD and DTS decide whether or not to enforce regulations (traffic violations, homeless issues, etc.) on a private road?
- Do any other private landowners alienate the interest (i.e. alienate a portion of the road, from property line to property line, and claim ownership of only part of the property)?

#### 5. DISCUSSION OF RECOMMENDATIONS AND NEXT STEPS

A designee representing a local business distributed material, which included a list of proposed recommendations relating to the City enforcement of ordinance violations. The facilitator announced that the next meeting would predominately be a discussion of proposed recommendations. The co-chairs encouraged Working Group members to research and submit any information relating to questions raised during the meeting, for the purposes of assisting in the development of more accurate proposed recommendations. The co-chairs further encouraged Working Group members to work collaboratively with other appropriate departments/Working Group members, and each respectively return to the next meeting with one to two proposed recommendations for discussion.

#### ANNOUNCEMENTS AND PUBLIC COMMENTS

There were no announcements or public comments offered.

#### NEXT MEETING

The next meeting is scheduled for Friday, December 11, 2015, at 2:30 p.m. (Council Committee Meeting Room, 2<sup>nd</sup> Floor, Honolulu Hale).

#### ADJOURNMENT

The meeting was adjourned by the co-chairs at 5:33 p.m.

###

## **Identification of Questions and Issues**

(10/14/15 KPIF Working Group Meeting • Revised 10/23/15)

### Clarify existing ownership of private roads in central Kakaako area

1. Will the Working Group's recommendations impact the ongoing court cases?
  - *Proposed Action: State - AG/DLNR for background information on road issues from Deputy AG*
2. What is the legal status of private roads? What is the law regarding streets that do not have posted signs designating them as private? If no signs designating roads as private have been posted, what is the law regarding ownership after a designated period of years have passed (i.e. adverse possession, etc.)?
  - *Proposed Responses: State - AG/DLNR, City - Corp. Counsel/DTS?*
3. Have private street "owners" been paying taxes? Are taxes required on privately owned roads?
  - *Proposed Responses: City - Corp. Counsel (Dept. of Budget & Fiscal Services)?*
4. What actions have the State or Counties taken in other private road ownership situations/disputes (i.e. road surrender, no entity claiming ownership of road, etc.)?
  - *Proposed Responses: State - AG/DLNR, City - Corp. Counsel/DTS?*
5. Would the Legislature/County Council need to take any affirmative action to address private road ownership disputes?
  - *Proposed Responses: State Legislature, City Council?*

### Identify issues impacting maintenance, operations, and planning for private roads under current ownership situations

6. Who owns the surrounding streets on Map D-2 (from October 14, 2015 handout - County Division of Land Survey and Acquisition Map) and how is HCDA involved? Can Map D-2 be updated to reflect existing conditions as of October 2015? What is the historical timeline involving ownership changes in central Kakaako?
  - *Proposed Actions: State - HCDA/OSP, City - Corp. Counsel (Dept. of Design & Construction), Scott Hawaii for historical timeline.*
7. Which private roads should receive the Working Group's highest priority?
  - *Proposed Responses: Ala Moana NB #11, representatives of Kakaako residents and businesses with entrances/exits fronting private roads?*
8. What is the current situation regarding parking on private roads in Kakaako? Which ones have parking restrictions? How much are businesses and/or drivers charged?
  - *Proposed Responses: Ala Moana NB #11, representatives of Kakaako residents and businesses with entrances/exits fronting private roads?*
9. What is the best way to restore maintenance to the private roads whose maintenance currently has been halted?
  - *Proposed Responses: City - Corp Counsel (Dept. of Facility Maintenance)?*
10. Can a private road owner dedicate only the paved portion of the road to the public, and reserve the road right of way for private purpose? Can a person who dedicates a roadway to the public only dedicate the paved portion?
  - *Proposed Responses: State - AG/DLNR, City - Corp. Counsel, DTS?*

Identify options for City & County and/or State of Hawaii to acquire private roads or pursue other alternatives to provide safe roadways and infrastructure in Kakaako

11. What are the exact limitations on Honolulu city government's ability to plan for areas along private roads, or to upgrade them or utilities within their rights of way, if desired?
  - *Proposed Responses: City - Corp. Counsel, DTS (other agencies as appropriate)?*
12. How can private roads become public roads? What's the procedure? What is the cost? Which entity pays?
  - *Proposed Responses: State - AG/DLNR, City - Corp. Counsel/DTS?*



## CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

# MEETING MINUTES

## KAKAAKO PUBLIC INFRASTRUCTURE AND FACILITIES WORKING GROUP

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FRIDAY, DECEMBER 11, 2015  
COUNCIL COMMITTEE MEETING ROOM  
2<sup>nd</sup> FLOOR  
HONOLULU HALE  
2:30 p.m.

### MEMBERS PRESENT

Co-Chair Carol Fukunaga, City Council  
Co-Chair Suzanne Chun Oakland, State Senate  
Co-Chair Ryan Yamane, State House of Representatives  
George Atta, Department of Planning and Permitting  
Michael Formby, Department of Transportation Services  
Deepak Neupane, Hawaii Community Development Authority  
Steve Scott, Scott Hawaii

### MEMBERS ABSENT

Leo Asuncion, Jr., Office of Planning  
Roy Bumgarner, Imperial Plaza  
Aaron Landry, Ala Moana-Kakaako Neighborhood Board #11  
Ross Sasamura, Department of Facility Maintenance  
Russell Tsuji, Department of Land and Natural Resources  
Jennifer Waihee-Polk, Department of Corporation Counsel  
Mike Wong, Department of the Attorney General

### OTHERS PRESENT

Facilitator Thomas Mitrano, Mediation Center of the Pacific, Access ADR program

### CALL TO ORDER

The meeting of the Kakaako Public Infrastructure and Facilities Working Group ("Working Group") was called to order by the co-chairs at 2:40 p.m.

### APPROVAL OF MEETING MINUTES

The minutes of the Thursday, November 12, 2015 Working Group meeting were approved, with no additions or corrections.

### DISCUSSION

The Working Group discussed a list of questions and proposed recommendations that were developed based on discussions during the previous Working Group meeting (see attachment, revised December 2, 2015). The questions were organized based on the following two categories: 1) Ownership; and 2) Maintenance, Usage, and Enforcement. The proposed recommendations included both comments and submittals by members. The facilitator explained that at the end of the meeting the Working Group would decide whether or not an additional meeting was needed. He also expressed his appreciation for the thorough response

submitted by the Hawaii Community Development Authority, and copies of the response were distributed.

### 1. REMAINING OWNERSHIP ISSUES

The facilitator noted that the issue of ownership had been discussed at length during the previous meeting. Members agreed that they had no additional questions, comments, or responses relating to ownership at that time.

### 2. REMAINING MAINTENANCE, USAGE, AND ENFORCEMENT ISSUES

The Working Group discussed the issue of taxation, in relation to roads being taxed at a different rate when commercial activities occur, compared to when no commercial activities occur. The Department of Transportation Services ("DTS") designee provided information he had received from the Department of Budget and Fiscal Services. The DTS designee stated that he was told that private roads with no commercial use are taxed at a minimum level, versus private roads where owners used the road for commercial use, which are taxed at a higher level; and provided examples. Discussion ensued. The City Council co-chair suggested that contacting the Department of Taxation for more information regarding taxes paid and licenses held by specific businesses.

The issues of access, jurisdiction, enforcement, and City-provided services were discussed by members, with the City Council co-chair noting that specific ordinances were submitted previously by Corporation Counsel. Members made additional comments.

The Working Group discussed the utilization of shoulders, sidewalks, and unimproved sidewalks on, in conjunction with the maintenance of the travel lane portions of, publically-used private roads. The DTS designee provided examples of various landowners who utilized the right of ways on their publically-used private roads for their own private interests, but noted that those landowners also maintained the roads.

### 3. REMAINING MAINTENANCE, USAGE, AND ENFORCEMENT ISSUES

The Working Group discussed the following proposed recommendations relating to:

- State condemnation of private roads, including the possibility of making infrastructure improvements and creating an Improvement District ("ID"), with subsequent dedication of those improved roads to the City, including an intergovernmental agreement to modified road standards and City maintenance;
- Adoption of legislation requiring developers to provide supplemental documentation as to ownership of the surrounding roads at the time of a development project application was discussed by members;
- Construction of a parking structure to address the limited public parking issue; and
- City enforcement of traffic regulations on private roads was discussed by members.

Discussion ensued. It was noted that a proposed recommendation relating to City enforcement of ordinance violations regarding a specific business was submitted and discussed at the previous meeting.

### PUBLIC COMMENTS

A representative from a small business located in Kakaako provided oral testimony, including posing a question to the Department of Planning and Permitting, expressing concern regarding the creation of an ID Program, and expressing support for any joint State-City resolution that would result in the resuming of private road maintenance without burdening local businesses.

A representative from another small business located in Kakaako provided oral testimony, including providing historical background, expressing the concern of local businesses regarding the condition of Kakaako private roads, and expressing the need for a State-City resolution to be reached.

#### DISCUSSION OF FINAL REPORT

The Working Group agreed an additional meeting was needed, prior to final recommendations being reached and a final report submitted. The City Council co-chair stated the co-chairs would be actively working with State-City departments to move the discussion forward. It was announced that the next meeting would be the discussion of, and decisions regarding, final recommendations.

#### ANNOUNCEMENTS

There were no announcements offered.

#### NEXT MEETING

The next meeting is scheduled for Friday, January 22, 2015, at 2:30 p.m. (State Capitol, Conference Room 229, 2nd Floor).

#### ADJOURNMENT

The meeting was adjourned by the co-chairs at 4:09 p.m.

###

**Identification of Proposed Questions/Responses and Recommendations**  
(11/12/15 KPIF Working Group Meeting • Revised 12/2/15)

Ownership

1. In an ownership transfer of a road parcel, can a landowner dedicate the travel lane portion of the road and retain ownership of the remainder of the right of way?

Maintenance, Usage, and Enforcement

2. Is a road taxed differently when there are commercial activities occurring (i.e. a private landowner charging for parking), compared to when there are no commercial activities occurring (i.e. free, public parking on a private road)?
  - Any examples?
3. When does an access become a prescriptive easement (i.e. the right to use the property of another, acquired by continued use without permission of the private landowner for a prescribed period of time)?
  - What is the current law, rule, or policy? Is a prescriptive easement formalized by a document (i.e. resolution, memo of understanding, etc.)? If a prescriptive easement is granted, would the City be able to maintain the roadway?
4. How do DFM and ENV decide whether or not to provide services (trash pickup, road repaving, etc.) on a private road?
  - What is the controlling ordinance?
  - Is the decision/agreement to provide services formalized by document (i.e. resolution, memo of understanding, etc.)?
5. How do HPD and DTS decide whether or not to enforce regulations (traffic violations, homeless issues, etc.) on a private road?
  - What ordinances are applicable to streets outlined in Reso 15-45, CD1, FD1?
6. Do any other private landowners alienate the interest (i.e. alienate a portion of the road, from property line to property line, and claim ownership of only part of the property)?
  - Do any landowners of other private roads use the unimproved shoulders/sidewalks for parking (i.e. Kakaako, Kalihi, Mililani, etc.)? Have they erected parking meters, with proceeds going to the private landowner instead of to the City?

Potential Recommendations Based on Discussion/Member Submitted Recommendations

7. The State could condemn the road (i.e. the entire right-of-way, including the road, shoulders, etc.), make road and infrastructure improvements (gradually, if necessary), and subsequently dedicate the improved road to the City. The City could then accept the entire right-of-way (including the road, shoulders, improvements, etc.) and maintain the road going forward.
  - The State Legislature could appropriate funds to the appropriate State department(s) for condemnation and infrastructure improvements in preparation for dedication to the City.
  - HCDA's Improvement District ("ID") Program could be utilized to fund infrastructure improvements. Relaxed requirements (compared to current City standards) could be adopted by State/City agencies, thereby minimizing the

- assessment amounts on small landowners. The City would then accept the dedication of the road upon completion of the agreed-upon infrastructure improvements.
- The City Council could appropriate funds to the appropriate City department(s) for maintenance.
8. HCDA does not currently require developers to provide supplemental documentation as to ownership of the surrounding roads at the time of a development project application.
    - The State Legislature could adopt legislation to require, at the time of a development project application, that developers provide supplemental documentation to HCDA regarding ownership of all surrounding roads.
  9. The City/State could build a public parking structure/lot in the Kakaako area to address the limited public parking issue.
    - The City Council/State Legislature could appropriate funds.
  10. The City could enforce traffic regulations on private roads in Kakaako, as HRS section 46-16 and ROH section 15-1.1 allows the City to enforce traffic regulations on private streets that have been used by the public for more than six months.
    - The City could enforce the appropriate ordinance, to allow pedestrians unobstructed access to a safe walking area; or the City could enforce the appropriate ordinance, to restrict the parking of vehicles where it is dangerous to those using the road and to prevent parked vehicles on the shoulder of the road from obstructing the normal flow of traffic.
  11. Request City to research the ROH and make a determination on whether or not Kakaako Land Co. is violating any City ordinances.
    - If they are found to be in violation, inform the appropriate City agencies in charge of enforcement of the violations and have them contact Kakaako Land Co. with a deadline to comply with correction. If correction of violations isn't performed, then the appropriate agencies would levy penalties and remove all Kakaako Land Co. signage. With signage and rented parking spaces removed, the roadways would qualify for surface maintenance by the City.

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## **MEETING MINUTES**

### **KAKAAKO PUBLIC INFRASTRUCTURE AND FACILITIES WORKING GROUP**

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FRIDAY, JANUARY 22, 2016  
CONFERENCE ROOM 229  
2<sup>nd</sup> FLOOR  
STATE CAPITOL  
2:30 p.m.

#### **MEMBERS PRESENT**

Co-Chair Carol Fukunaga, City Council  
Co-Chair Suzanne Chun Oakland, State Senate  
Co-Chair Ryan Yamane, State House of Representatives  
Leo Asuncion, Jr., Office of Planning  
George Atta, Department of Planning and Permitting  
Roy Bumgarner, Imperial Plaza  
Michael Formby, Department of Transportation Services  
Deepak Neupane, Hawaii Community Development Authority  
Steve Scott, Scott Hawaii  
Ryan Tam, Ala Moana-Kakaako Neighborhood Board #11  
Russell Tsuji, Department of Land and Natural Resources  
Jennifer Waihee-Polk, Department of Corporation Counsel  
Mike Wong, Department of the Attorney General

#### **MEMBERS ABSENT**

Ross Sasamura, Department of Facility Maintenance

#### **OTHERS PRESENT**

Facilitator Thomas Mitrano, Mediation Center of the Pacific, Access ADR program

#### **CALL TO ORDER**

The meeting of the Kakaako Public Infrastructure and Facilities Working Group ("Working Group") was called to order by the co-chairs at 2:35 p.m.

#### **APPROVAL OF MEETING MINUTES**

The minutes of the Friday, December 11, 2015 Working Group meeting were approved, with no additions or corrections. The Department of Land and Natural Resources representative requested a correction be made to the minutes of the Thursday, November 12, 2015 meeting.<sup>1</sup>

#### **DISCUSSION OF FINAL RECOMMENDATIONS**

The Working Group distributed a list of five proposed final recommendations that were developed based on discussions and submittals during previous meetings (see Council Com. 17 (2016)). Discussion ensued regarding additions, corrections and/or deletions of specific proposed final recommendations. The following suggestions were offered:

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<sup>1</sup> This request was later retracted.

- Recommendation #1: Remove generic references to “State” and identify and insert the appropriate State agency.
- Recommendation #2: Delete as a separate recommendation.
- Recommendation #3: Remove recommendation as a separate recommendation and insert as a subset of Recommendation #1 (i.e. Subsection “F”). Delete the singular.
- Recommendation #4: Tighten language and specify violations of ordinances (i.e. property tax, subdivision, etc.).
- Recommendation #5: None.

Pending litigation precluded a majority of the City and State agency representatives from adopting official positions and/or required them to abstain from voting on the Working Group’s final recommendations.<sup>2</sup> No formal vote was taken, or official decisions rendered. The co-chairs stated that several of the proposed final recommendations would be incorporated into legislation for consideration during the 2016 legislative session, and they would further explore whether or not parallel measures would require introduction by the City Council.

#### PUBLIC COMMENTS

A resident of Pacifica Honolulu provided oral testimony, noting her support for Kakaako streets becoming public streets by condemnation, etc., suggesting any substandard streets be constructed as one-way, and agreeing that parking laws should be enforced. The resident submitted photographs (see Misc. Com. 169 (2016)).

A representative from MacDonald & Porter provided oral testimony, stating that although he appreciated the long-term solutions that has been the group’s focus, his concern is finding short-term solutions to relieve the businesses and residents in Kakaako. The representative noted his support of City ordinance enforcement in Kakaako, and submitted photographs (see Misc. Com. 170 (2016)).

A representative from Dang Enterprises, Inc. provided oral testimony, stating her concern regarding the ownership of certain Kakaako streets and correlating property tax assessments.

A representative from a Kawaiahao St. small business provided oral testimony, noting his concern with the poor condition of several Kakaako area private streets, particularly in regard to potholes. The representative submitted photographs (see Misc. Com. 171 (2016)).

#### DISCUSSION OF FINAL REPORT

The facilitator will be preparing the final report.

#### ANNOUNCEMENTS

There were no announcements offered.

#### NEXT MEETING

There were no further meetings scheduled.

#### ADJOURNMENT

The meeting was adjourned by the co-chairs at 4:40 p.m.

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<sup>2</sup> The co-chairs later decided to offer the five final recommendations as discussed as a reflection of the general Working Group consensus (see attached Final Recommendations, dated February 11, 2016).

Final Recommendations  
KPIF Working Group • 2/11/16

*The following recommendations reflect the Working Group's general consensus for resolving usage and maintenance issues discussed during the first three meetings. However, because pending litigation filed over parking fees involving private roads included City and State agencies as parties, a majority of agency representatives were precluded from adopting positions on the following recommendations.*

*As such, the Working Group Co-Chairs offer the following recommendations as a reflection of a general group consensus. Specific implementation actions will be considered through legislative measures introduced in the State House of Representatives and State Senate during the 2016 legislative session to address items 1, 2, and 3. Legislative measures may be introduced in the Honolulu City Council to address items 4 and 5, as appropriate. References to the "State" in recommendations 1 and 3 refer to Hawaii Community Development Authority, and to the "City" in recommendations 1, 3, 4, and 5 refer to Departments of Transportation Services and Planning and Permitting.*

1. The State could condemn the road (i.e. the entire right-of-way, including the road, shoulders, etc.), make road and infrastructure improvements (gradually, if necessary), and subsequently dedicate the improved road to the City. The City could then accept the entire right-of-way (including the road, shoulders, improvements, etc.) and maintain the road going forward.
  - a. The State Legislature could appropriate funds to the appropriate State department(s) for condemnation and infrastructure improvements in preparation for dedication to the City.
  - b. HCDA's Improvement District ("ID") Program could be utilized to fund infrastructure improvements.
  - c. Relaxed requirements (compared to current City standards) could be adopted by State/City agencies, thereby minimizing the assessment amounts on small landowners.
  - d. The City would then accept the dedication of the road upon completion of the agreed-upon infrastructure improvements.
  - e. The City Council could appropriate funds to the appropriate City department(s) for maintenance.
2. HCDA does not currently require developers to provide supplemental documentation as to ownership of the surrounding roads at the time of a development project application.
  - a. The State Legislature could adopt legislation to require, at the time of a development project application, that developers provide supplemental documentation to HCDA regarding ownership of all surrounding roads.
3. The City/State could build public parking structures/lots in the Kakaako area to address the limited public parking issue.
  - a. The City Council/State Legislature could appropriate funds.
4. The City could enforce traffic regulations on private roads in Kakaako, as HRS section 46-16 and ROH section 15-1.1 allow the City to enforce traffic regulations on private streets that have been used by the public for more than six months.

- a. The City could enforce the appropriate ordinance, to allow pedestrians unobstructed access to a safe walking area.
  - b. The City could enforce the appropriate ordinance, to restrict the parking of vehicles where it is dangerous to those using the road and to prevent parked vehicles on the shoulder of the road from obstructing the normal flow of traffic.
5. The City could make a determination on whether or not Kakaako Land Co. is violating any City ordinances.
- a. If they are found to be in violation, the appropriate City agencies in charge of enforcement of the violations could contact Kakaako Land Co. with a deadline to comply with correction.
  - b. If correction of violations is not performed, then the appropriate agencies could levy penalties and remove all Kakaako Land Co. signage.
  - c. With signage and rented parking spaces removed, the roadways could qualify for surface maintenance by the City.

###